RECENT IMPORTANT DECISIONS

ARBITRATION AND AWARD—BY-LAWS OF BOARD OF TRADE—OUSTING COURTS' JURISDICTION.—The charter of the Chicago Board of Trade (Act of Feb. 18, 1859) permits it to "establish such rules, regulations, and by-laws for the management of their business and the mode in which it shall be transacted as they may think proper." A by-law provided that "margins" on transactions between members should be deposited with the treasurer and, in case of dispute, the party entitled to them should be determined by an administrative board. *Held,* the decision of this board acting bona fide and in accordance with the by-laws is final, and a court of equity will not intervene either to prevent or to review its action. *Pacaud et al.* v. *Waite et al* (1905), — Ill. —, 75 N. E. Rep. 779.

Two questions are here involved; the validity of agreements to arbitrate, and the binding power of by-laws of an association. Agreements to make the decision of some expert conclusive of a subsidiary matter of fact in the performance of a contract, or to make his award a condition precedent to suit, are valid (*Scott* v. *Avery,* 5 H. of L. Cas. 811; *D. & H. Canal Co.* v. *Pa. Coal Co.,* 50 N. Y. 250), but general contracts to submit all future disputes to arbitration are void as ousting the jurisdiction of the courts. *Mentz* v. *Armenia Fire Ins. Co.,* 79 Pa. St. 478; *Wood* v. *Humphrey,* 114 Mass. 185. The courts will not ordinarily interfere in the proceedings of a voluntary association, even though incorporated, unless a property right of a member is involved, and then only when the action taken is contrary to the by-laws of the association, or those by-laws are grossly unjust. *Peyre* v. *Mut. Rel. Soc. of French Zouaves,* 90 Calif. 240; *Screwmen's Benev. Assn.* v. *Benson,* 76 Tex. 552. Over commercial exchanges the New York courts exercise a much closer supervision than those of Illinois. In New York the fact of incorporation gives the court a visitorial supervision to protect the rights of members (*People ex rel. Johnson* v. *Stock Exchange,* 149 N. Y. 401) and membership is a property right. *Pratt* v. *Jones,* 96 N. Y. 24. In Illinois such exchanges, though incorporated, are treated as merely voluntary associations not subject to visitation, and no property is recognized in membership. *People ex rel. Rice* v. *Board of Trade,* 80 Ill. 134; *Board of Trade* v. *Nelson,* 162 Ill. 431. Where the decisions of an internal tribunal for the settlement of disputes between members or of claims against the society are in question, the rule against general arbitration agreements and the principle of non-interference in the affairs of voluntary associations conflict. Accordingly, some courts support such decisions, holding that "contracts of this nature by which one becomes a member of a mutual association * * * are upon a different footing than ordinary [arbitration] contracts between individuals," *Hembeau* v. *Great Camp of Maccabees,* 101 Mich. 161; *Anacosta Tribe* v. *Murbach,* 13 Md. 91. Other courts refuse to distinguish between such regulations and ordinary arbitration contracts, and hold them void. *Heath* v. *N. Y. Gold Exchange,* 38 How. Prac. 168; *State ex rel. Kennedy* v. *Union Merchants' Exchange,* 2 Mo. App. 96; *Whitney* v. *Nat. Masonic, Etc., Assn.,*

52 Minn. 378; BACON ON BENEFIT SOCIETIES, §§ 94 and 450 and cases there cited. Such regulations have sometimes been held invalid for claims against the society, since the society is made judge in its own case. *Railway Conductors' Etc., Assn.* v. *Robinson,* 147 Ill. 138. In the case here discussed the society is not a party, and under similar facts the Illinois court had already upheld such a law. *Ryan* v. *Cudahy,* 157 Ill. 108, 49 L. R. A. 353, note.

BILLS AND NOTES—ACCOMMODATION INDORSEMENT—CONFLICT OF LAWS.—In an action by the indorsee of a note, made by defendant's husband, payable to his order, and indorsed in blank by himself and defendant, although the date line read New York, the note and indorsement were in fact made in New Jersey where a married woman is not liable as an accommodation indorser unless she or her separate estate have derived some benefit from the contract. *Held,* defendant is estopped from denying that her contract is a New York contract. *Chemical National Bank of New York* v. *Kellogg* (1905), — N. Y. —, 75 N. E. Rep. 1103.

The general rule is that each indorsement is a separate contract, (WHARTON'S CONFLICT OF LAWS (3rd Ed.), § 449a; *Spies* v. *National City Bank,* 174 N. Y. 222; *Glidden* v. *Chamberlin,* 167 Mass. 486; *Warner* v. *Bank,* 6 S. D. 152; *Briggs* v. *Latham,* 36 Kan. 255) the validity of which is, in general, determined by the law of the place where the indorsement is made, (*Phoenix Insurance Co.* v. *Simons,* 52 Mo. App. 357; *Bank* v. *Duerr,* 95 N. Y. Supp. 810; *Bank* v. *Chapman,* 169 N. Y. 538; *Nixon* v. *Halley,* 78 Ill. 611; *Evans* v. *Cleary,* 125 Pa. St. 204; *Ruhe* v. *Buck,* 124 Mo. 178; *Miller* v. *Wilson,* 146 Ill. 523; *Bond* v. *Cummings,* 70 Me. 125; *Scudder* v. *Bank,* 91 U. S. 406) unless the intention is to negotiate the instrument elsewhere. *Spies* v. *Bank,* supra; *Maxwell* v. *Vansant,* 46 Ill. 58. This is none the less true of the contracts of a married woman, particularly when her domicile is not at the forum. *Bell* v. *Packard,* 69 Me. 105; *Hill* v. *Chase,* 143 Mass. 129; *Insurance Co.* v. *Westvelt,* 52 Conn. 586; *Nichols & Shepard Co.* v. *Marshall,* 108 Ia. 518. *Taylor* v. *Sharp,* 108 N. C. 377, goes a step farther and indulges in the presumption that the married woman was domiciled at the place where the contract was made, the contrary not appearing. Under these rules, the contract having been actually made in New Jersey, the defendant would not ordinarily be liable thereon. However, the negotiable instruments law covers the case squarely by the provision that "except where the contrary appears, every indorsement is presumed prima facie to have been made at the place where the instrument is dated." Independently of the statute, the defendant is estopped from denying that the note was indorsed in New York by giving it currency as one made in New York. It was her duty to give notice, in some way, that her contract was not what it appeared to be. *Maxwell* v. *Vansant,* 46 Ill. 58; *Towne* v. *Rice,* 122 Mass. 67. While it is true that this estoppel rests upon the presumption declared by the above provision of the negotiable instruments law, it also seems to be based equally upon the fraud of the party. *Gray* v. *Crockett,* 35 Kan. 66; *Miles* v. *Lefi,* 60 Ia. 168; *Caswell* v. *Fuller,* 77 Me. 105; *Bank* v. *Thompson,* 42 N. H. 369.